

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF INDIANA  
NEW ALBANY DIVISION

IN RE:	)	Chapter 11
	)	
EASTERN LIVESTOCK CO., LLC,	)	Case No. 10-93904-BHL-11
	)	
<u>Debtor.</u>	)	Hon. Basil H. Lorch III

**MOTION TO APPROVE COMPROMISE AND SETTLEMENT  
WITH DAVID PETERSON**

Pursuant to Federal Rule of Bankruptcy Procedure 9019, James A. Knauer, as chapter 11 trustee ("Trustee") for the debtor, Eastern Livestock Co., LLC (the "Debtor"), by counsel, hereby files this motion (the "Settlement Motion") requesting the Court's approval of a compromise and settlement of claims between the Trustee and David Peterson ("Peterson"). In support of this Settlement Motion, the Trustee states as follows:

**Introduction and Background**

1. Certain petitioning creditors commenced the above-captioned chapter 11 case (the "Chapter 11 Case") against Debtor on December 6, 2010 by filing an involuntary petition for relief under chapter 11 of title 11 of the United States Code. This Court entered the Order For Relief in An Involuntary Case and Order to Complete Filing [Dock. No. 110] on December 28, 2010.

2. On December 27, 2010, the Court entered the Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee [Dock. No. 102], approving the United States Trustee's Application for an Order Approving the Appointment of James A. Knauer as Chapter 11 Trustee [Dock. No. 98] pursuant to 11 U.S.C. § 1104.

3. On March 23, 2012, the Trustee filed his Adversary Complaint (the "Adversary Proceeding") against Peterson as Adversary Proceeding 12-59058.

4. Based on his investigation, the Trustee had concluded that Peterson owes the Debtor \$62,408.10 on account of the Debtor's prepetition delivery of cattle to or on behalf of Peterson and as evidenced by Debtor's invoice number 310521.

5. Since the filing of the AP Lawsuit, Peterson has presented evidence to the Trustee that Thomas Hagedorn, who owned the feedlot to which the cattle had been delivered and who, along with Peterson, had a part ownership interest in the cattle, had paid Superior Livestock, the marketing agency that sold the cattle to Debtor, for the cattle, but such payment was \$5,314.71 less than the amount owed to Debtor for the delivered cattle. The Parties now desire to settle their dispute upon the terms and conditions set forth in the Settlement Agreement and Mutual Release attached hereto as Exhibit A to this Settlement Motion ("Settlement Agreement")

#### **The Settlement**

6. The Trustee requests that the Court approve the Settlement Agreement. Pursuant to the Settlement Agreement, Peterson has agreed to pay the Trustee the total amount of \$5,314.71 (the "Settlement Amount") within five (5) days of this Court's approval and final, non-appealable Order.

#### **Basis for Relief**

7. Pursuant to Federal Rule of Bankruptcy Procedure 9019, this Court has authority to approve a compromise or settlement on motion made by the Trustee after notice and opportunity for a hearing.

8. Under Bankruptcy Rule 9019, a bankruptcy court should approve a proposed compromise if it is fair and equitable and in the best interests of the estate. See In re Doctors Hosp. of Hyde Park, Inc., 474 F.3d 421, 426 (7th Cir. 2007); Depoister v. Mary M.

Holloway Found, 36 F.3d 582, 586 (7th Cir. 1994); Matter of Energy Co-op, Inc. 886 F.2d 921, 927 (7th Cir. 1989).

9. The Trustee believes that the compromise and settlement reflected in the proposed Settlement Agreement is fair and equitable and in the best interests of the estate. The alternative to the settlement is litigation of the claims between the Debtor and Peterson, which would result in expenses and delay and create the possibility of an outcome that would result in a smaller recovery to the estate.

10. The Trustee requests the Court to specify in the Settlement Order that the Settlement Amount shall be deposited into the Debtor's general operating account, subject to any order governing the use of cash collateral by the Trustee.

9. If no objections to this Settlement Motion are filed, the Parties request that the Court enter the Settlement Order approving the Settlement Agreement. If any objections to this Settlement Motion are filed, the Parties request that this Settlement Motion and any timely filed objection be scheduled for hearing by the Court on the earliest date that is available and convenient to the Court.

WHEREFORE, the Trustee respectfully requests that the Court enter a Settlement Order approving the Settlement Agreement attached hereto as Exhibit A and grant the Trustee all other just and proper relief.

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

By: /s/ Shawna Meyer Eikenberry

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### **CERTIFICATE OF SERVICE**

I hereby certify that on January 11, 2013, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

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